

THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

TOUCHSTONE TECHNOLOGY, INC.,
JACK SCHWARTZ, and TAI T. WU,

Plaintiffs,

V.

FUJI PHOTO FILM CO., LTD. , §
FUJI PHOTO FILM U.S.A., INC, §
EASTMAN KODAK COMPANY, CANON, INC., §
and CANON U.S.A.. INC. §

Defendants.

(JURY TRIAL DEMANDED)

Plaintiffs, Touchstone Technology, Inc., (“Touchstone”), Jack Schwartz, and Tai T. Wu complain of defendants Fuji Photo Film Co., Ltd. (“Fuji”), Fuji Photo Film U.S.A., Inc. (“Fuji USA”), Eastman Kodak Company (“Kodak”), Canon, Inc. (“Canon”), and Canon U.S.A., Inc. (“Canon USA”) as follows:

COMPLAINT

Plaintiffs, Touchstone Technology, Inc., ("Touchstone"), Jack Schwartz, and Tai T. Wu complain of defendants Fuji Photo Film Co., Ltd. ("Fuji"), Fuji Photo Film U.S.A., Inc. ("Fuji USA"), Eastman Kodak Company ("Kodak"), Canon, Inc. ("Canon"), and Canon U.S.A., Inc. ("Canon USA") as follows:

JURISDICTION AND VENUE

1. Jurisdiction exists under 28 U.S.C. §1338(a) because the defendants are charged with patent infringement under 35 U.S.C. § 271.

2. The defendants each transact business in this judicial district by manufacturing, selling or offering to sell devices that are the subject of one or more of the patents at issue in this lawsuit or by practicing methods covered by one or more of those patents or by inducing others to infringe the patents or by conducting other business in this judicial district.

3. Venue is proper under 28 U.S. C. §§ 1331 and 1400 (b).

PARTIES

4. Touchstone is a Massachusetts corporation with its principal place of business at 147 Ridge Street, Arlington, Massachusetts 02474.

5. Jack Schwartz and Tai T. Wu are individuals residing in Massachusetts, with an address at 147 Ridge Street, Arlington, Massachusetts 02474.

6. Fuji is a Japanese company with its principal place of business at 2-26-30 Nishiazabu, Minato-Ku, Tokyo 106-8620, Japan.

7. Fuji USA is a New York corporation with its corporate headquarters at 555 Taxter Road, Elmsford, New York 10523.

8. Kodak is a New Jersey corporation with its principal place of business at 343 State Street, Rochester, New York 14650.

9. Canon is a Japanese company with its principal place of business at 30-2 Shimomaruko 3-chome, Ohta-ku, Tokyo 146-8501, Japan.

10. Canon U.S.A. is a New York corporation with its principal place of business at 1 Canon Plaza, Lake Success, New York 11042.

COUNT I
PATENT INFRINGEMENT BY THE DEFENDANTS

11. Each of the defendants has infringed United States Patents Number 4,658,286, either directly or through acts of contributory infringement or inducement in violation of 35 U.S.C. § 271.

12. The infringement of each of the patents alleged above has injured Plaintiffs and Plaintiffs are entitled to recover damages adequate to compensate for Defendants' infringement, in no event less than a reasonable royalty.

13. Upon information and belief, each defendant's infringement has been willful and deliberate, and was carried out with actual and/or constructive notice and actual knowledge of each patent.

Jury Demand

14. Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiffs hereby demand a jury on all issues triable of right by a jury.

WHEREFORE, Plaintiffs respectfully demand judgment against each defendant, individually and jointly, and against their subsidiaries, affiliates and related companies, as follows:

- A. An award of compensatory damages in an amount to be determined at trial, plus prejudgment interest and costs of suit, for breach of the Agreement.
- B. An award of damages adequate to compensate Plaintiffs for the patent infringement that has occurred, together with prejudgment interest and costs;
- C. All other damages permitted by 35 U.S.C. § 284, including increased damages up to three times the amount of compensatory damages found;
- D. A finding that this case is exceptional and an award to Plaintiffs of their reasonable attorneys' fees as provided by 35 U.S.C. § 285; and

E. Such other and further relief as this Court or a jury may deem proper and just.

Dated: April 10, 2000

Respectfully submitted,



Mark A. Pogue (BBO No. 550807)
Kathleen B. Carr (BBO No. 564138)
EDWARDS & ANGELL, LLP
101 Federal Street
Boston, MA 02110
(617) 439-4444 (telephone)
(617) 439-4170 (facsimile)

Joseph N. Hosteny
William W. Flachsbart
NIRO, SCAVONE, HALLER & NIRO
181 West Madison, Suite 4600
Chicago, Illinois 60602
(312) 236-0733 (telephone)
(312) 236-3137 (facsimile)

Attorneys for Touchstone Technology, Inc.,
Jack Schwartz, and Tai T. Wu

CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

Touchstone Technology, Inc.,
Jack Schwartz, and Tai T. Wu

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF Middlesex
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

Kathleen B. Carr (617) 439-4444
Edwards & Angell, LLP
101 Federal Street, Boston, MA 02110

DEFENDANTS

Fuji Photo Film Co., Ltd., Fuji Photo Film U.S.A., Inc., Eastman Kodak Company, Canon, Inc., and Canon U.S.A., Inc.

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT _____

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

II. BASIS OF JURISDICTION

(PLACE AN "X" IN ONE BOX ONLY)

1 U.S. Government Plaintiff 3 Federal Question (U.S. Government Not a Party)
 2 U.S. Government Defendant 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN "X" IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

	PTF	DEF	PTF	DEF	
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. ORIGIN

(PLACE AN "X" IN ONE BOX ONLY)

1 Original Proceeding 2 Removed from State Court 3 Remanded from Appellate Court 4 Reinstated or Reopened 5 Transferred from another district (specify) 6 Multidistrict Litigation 7 Magistrate Judgment

V. NATURE OF SUIT (PLACE AN "X" IN ONE BOX ONLY)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury – Med. Malpractice <input type="checkbox"/> 365 Personal Injury – Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	PROPERTY RIGHTS	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 990 Other Statutory Actions
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/ Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 510 Motions to Vacate Sentence HABEAS CORPUS: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 851 HIA (1395ff) <input type="checkbox"/> 852 Black Lung (923) <input type="checkbox"/> 853 DIVC/DIWV (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))
			LABOR	SOCIAL SECURITY
			<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 851 HIA (1395ff) <input type="checkbox"/> 852 Black Lung (923) <input type="checkbox"/> 853 DIVC/DIWV (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))
				FEDERAL TAX SUITS
				<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS – Third Party 26 USC 7609

VI. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY.)

Patent Infringement 35 U.S.C. § 271

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION
 UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:
JURY DEMAND: YES NO

VIII. RELATED CASE(S) (See instructions:
IF ANY

JUDGE _____

DOCKET NUMBER _____

DATE

April 10, 2000

SIGNATURE OF ATTORNEY OF RECORD

Kathleen B. Carr

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFF _____ JUDGE _____ MAG. JUDGE _____

1. **TITLE OF CASE (NAME OF FIRST PARTY ON EACH SIDE ONLY)** Touchstone Technology, Inc., et al. v. Fuji Photo Film Co., Ltd., et al.

2. **CATEGORY IN WHICH THE CASE BELONGS BASED UPON THE NUMBERED NATURE OF SUIT CODE LISTED ON THE CIVIL COVER SHEET. (SEE LOCAL RULE 40.1(A)(1))**

— I. 160, 410, 470, R.23, REGARDLESS OF NATURE OF SUIT.

X II. 195, 368, 400, 440, 441-444, 540, 550, 555, 625, 710, 720, 730, 740, 790, 791, 820*, 830*, 840*, 850, 890, 891-894, 895, 950. *Also complete AO 120 or AO 121 for patent, trademark or copyright cases

— III. 110, 120, 130, 140, 151, 190, 210, 230, 240, 245, 290, 310, 315, 320, 330, 340, 345, 350, 355, 360, 362, 365, 370, 371, 380, 385, 450, 891.

— IV. 220, 422, 423, 430, 460, 510, 530, 610, 620, 630, 640, 650, 660, 690, 810, 861-865, 870, 871, 875, 900.

— V. 150, 152, 153.

3. **TITLE AND NUMBER, IF ANY, OF RELATED CASES. (SEE LOCAL RULE 40.1(E))** None

4. **HAS A PRIOR ACTION BETWEEN THE SAME PARTIES AND BASED ON THE SAME CLAIM EVER BEEN FILED IN THIS COURT?** YES NO

5. **DOES THE COMPLAINT IN THIS CASE QUESTION THE CONSTITUTIONALITY OF AN ACT OF CONGRESS AFFECTING THE PUBLIC INTEREST? (SEE 28 USC 2403)** YES NO
IF SO, IS THE U.S.A. OR AN OFFICER, AGENT OR EMPLOYEE OF THE U.S. A PARTY? YES NO

6. **IS THIS CASE REQUIRED TO BE HEARD AND DETERMINED BY A DISTRICT COURT OF THREE JUDGES PURSUANT TO TITLE 28 USC 2284?** YES NO

7. **DO ALL PARTIES IN THIS ACTION RESIDE IN THE CENTRAL SECTION OF THE DISTRICT OF MASSACHUSETTS (WORCESTER COUNTY) - (SEE LOCAL RULE 40.1(C))** YES NO
OR IN THE WESTERN SECTION (BERKSHIRE, FRANKLIN, HAMDEN OR HAMPSHIRE COUNTIES) - (SEE LOCAL RULE 40.1(D)) YES NO

8. **DO ALL OF THE PARTIES RESIDING IN MASSACHUSETTS RESIDE IN THE CENTRAL AND/OR WESTERN SECTIONS OF THE DISTRICT?** YES NO
(a) IF YES, IN WHICH SECTION DOES THE PLAINTIFF RESIDE? _____

9. **IN WHICH SECTION DO THE ONLY PARTIES RESIDING IN MASSACHUSETTS RESIDE?** Eastern _____

10. **IF ANY OF THE PARTIES ARE THE UNITED STATES, COMMONWEALTH OF MASSACHUSETTS, OR ANY GOVERNMENTAL AGENCY OF THE U.S.A. OR THE COMMONWEALTH, DO ALL OTHER PARTIES RESIDE IN THE CENTRAL SECTION; YES NO** **OR WESTERN SECTION; YES NO**

(PLEASE TYPE OR PRINT)

ATTORNEY'S NAME Kathleen B. Carr, Edwards & Angell, LLPADDRESS 101 Federal Street, Boston, MA 02110TELEPHONE NO. (617) 439-4444

(Categfirm.rev - 3/97)

EDWARDS & ANGELL, LLP

COUNSELLORS AT LAW
since 1894

Kathleen B. Carr
Direct Dial: (617) 951-3326
E-Mail: kcarr@calaw.com

101 FEDERAL STREET
BOSTON, MA 02110-1800
(617) 439-4444
FAX (617) 439-4170

April 10, 2000

BY HAND DELIVERY

Clerk, Civil
United States District Court
District of Massachusetts
U.S. Courthouse
1 Courthouse Way
Boston, MA 02210

RE: Touchstone Technology, Inc., et. al. v. Fuji Photo Film Co., Ltd., et al.

Dear Sir or Madam:

Enclosed for filing in the above referenced matter please find an original and duplicate Complaint and Jury Demand, along with two Civil Action Cover Sheets and a check in the amount of \$150 to cover filing costs. Please date stamp the duplicate Complaint and return it to this office with the messenger.

Thank you for your assistance in this matter.

Sincerely,



Kathleen B. Carr

KBC/jh
Enclosures

BOS_165394.1/KCARR

TO: Commissioner of Patents and Trademarks Washington, D.C. 20231	REPORT ON THE FILING OR DETERMINATION OF AN ACTION REGARDING A PATENT OR TRADEMARK
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In Compliance with 35 § 290 and/or 15 U.S.C. § 1116 you are hereby advised that a court action has been filed in the U.S. District Court District of Massachusetts on the following Patents or Trademarks:

DOCKET NO. <u>10cv10700MLW</u>	DATE FILED <u>April 10, 1998</u>	U.S. DISTRICT COURT <u>District of Massachusetts</u>	
PLAINTIFF Touch-tone Technology, Inc., Jack Schwartz, and Taiji T. Wu		DEFENDANT Fuji Photo Film Co., Ltd., Fuji Photo Film U.S.A., Inc., Eastman Kodak Company, Canon, Inc., and Canon U.S.A., Inc.	
PATENT OR TRADEMARK NO.		DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
1		April 14, 1987	Touch-tone Technology, Inc.,
2			Jack Schwartz, and Taiji T. Wu
3			
4			
5			

In the above-entitled case, the following patent(s) have been included:

DATE INCLUDED	INCLUDED BY <input type="checkbox"/> Amendment <input type="checkbox"/> Answer <input type="checkbox"/> Cross Bill <input type="checkbox"/> Other Pleading	
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
1		
2		
3		
4		
5		

In the above-entitled case, the following decision has been rendered or judgment issued:

DECISION/JUDGMENT

CLERK	(BY) DEPUTY CLERK	DATE
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